



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-124, C-570-125]

Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders – Dual-Piston Engines

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of dual-piston engines with a single, common combustion chamber, of the type designed by FNA Group, Inc. (FNA), produced in, and exported from the People's Republic of China (China), constitute later-developed merchandise that is circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines), from China. Commerce is also applying this affirmative circumvention finding on a country-wide basis.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Paul Gill, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5673.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2022, Commerce published the *Preliminary Determination* of the circumvention inquiry of the AD and CVD orders on small vertical engines from China¹ with respect to imports of dual-piston engines with a single, common combustion chamber, of the

¹ See *Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 86 FR 23675 (May 4, 2021) (*Orders*).

type designed by FNA, produced in, and exported from China.² We invited parties to comment on the *Preliminary Determination*. For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.³

Scope of the Orders

The merchandise subject to the *Orders* is small vertical engines from China. For a complete description of the scope of the *Orders*, see the Issues and Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in, and exported from China, that otherwise meet the scope of the *Orders*. The dual-piston engines subject to this circumvention inquiry have a common combustion chamber shared by two cylinders that contain pistons working in unison.⁴

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached in the appendix to this notice. The Issues and Decision Memorandum is a public document and is filed electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Affirmative Final Determination of Circumvention

² See *Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders-Dual-Piston Engines; Rescission in Part*, 87 FR 59059 (September 29, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

³ See Memorandum, "Certain Vertical Shaft Engines Between 99cc and 225cc from the People's Republic of China: Issues and Decision Memorandum for Circumvention Inquiry – Dual-Piston Engines," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See Petitioner's Letter, "Request for Anti-Circumvention Inquiry Pursuant to Section 781(c) and/or Section 781(d) of the Tariff Act of 1930," dated March 4, 2022, at 2 – 3.

Consistent with the *Preliminary Determination*,⁵ Commerce continues to determine that imports of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in, and exported from China, constitute later-developed merchandise that is circumventing the *Orders*, pursuant to section 781(d) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(k). Commerce also continues to apply this affirmative circumvention finding on a country-wide basis.

Liquidation of Entries

In the *Preliminary Determination*, Commerce stated it would instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of, and collect cash deposits on, imports of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in, and exported from China, that were entered, or withdrawn from warehouse, for consumption on or after April 25, 2022 (*i.e.*, the date of the initiation of this inquiry).⁶ On October 26, 2022, Commerce rescinded the administrative review of the AD order for the period July 23, 2020, through April 30, 2022.⁷ Accordingly, the administrative review covering entries that would have been suspended had they entered from April 25, 2022, through April 30, 2022, has been rescinded.

For any unliquidated entries of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in, and exported from China, that entered as non-AD/CVD type entries (*e.g.*, type 01) that were shipped and/or entered, or withdrawn from warehouse, for consumption in the United States after April 25, 2022, importers should file a Post Summary Correction with CBP, in accordance with CBP's regulations regarding the conversion of such entries from non-AD/CVD case numbers to AD/CVD type entries (*e.g.*, type 01 to type 03). For such shipments, the Post Summary Corrections should be completed as soon as practicable, but no later than 45 days after the publication of this notice in the *Federal*

⁵ See *Preliminary Determination* PDM.

⁶ *Id.*, 87 FR at 59060.

⁷ See *Rescission of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 64764 (October 26, 2022).

Register. Importers should report those AD/CVD type entries of merchandise under the AD/CVD case numbers of the *Orders* on small vertical engines from China (*i.e.*, A-570-124, C-570-125) or appropriate third-country case numbers (*i.e.*, A-201-996, C-201-997). The importer must pay case deposits on those entries consistent with the regulations governing post summary corrections that require the payment of additional duties.

Commerce intends to instruct CBP to assess ADs and/or CVDs on all appropriate entries of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in, and exported from China, during the periods of review noted above at rates equal to the applicable cash deposit of estimated ADs or CVDs in effect at the time of entry, or withdrawal of merchandise from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions no earlier than 35 days after the publication of this notice in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Continuation of Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(3), Commerce will direct CBP to continue to suspend liquidation of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in, and exported from China, that are entered, or withdrawn from warehouse, for consumption on or after April 25, 2022 (*i.e.*, the date of the initiation of this inquiry).⁸ Pursuant to 19 CFR 351.225(l)(3), Commerce will also instruct CBP to require cash deposits of estimated duties equal to the AD and CVD rates in effect for small vertical engines for each unliquidated entry of dual-piston engines with a single, common combustion chamber, of the type designed by FNA, produced in, and exported from China, that are entered, or

⁸ *Id.*

withdrawn from warehouse, for consumption on or after April 25, 2022. The suspension of liquidation and cash deposit instructions will remain in effect until further notice.

Administrative Protective Order

This notice serves as the only reminder to all parties subject to the administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

Notification to Interested Parties

This determination is published in accordance with section 781(d) of the Act and 19 CFR 351.226(g)(2) and (k).

Dated: February 21, 2023.

Abdelali Elouaradia,
Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Merchandise Subject to the Circumvention Inquiry
- IV. Scope of the *Orders*
- V. Discussion of the Issues
 - Comment 1: The Commercial Availability of Dual-Piston Engines
 - Comment 2: Whether Dual-Piston Engines are the Same Merchandise as In-Scope Engines
- VI. Recommendation

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